

SENATE BILL NO. 264

BY SENATORS QUINN AND BROOME

1 AN ACT

2 To amend and reenact R.S. 46:2136(A)(4) and 2136.1(A) and Children's Code Article
3 1570.1(A) and to enact R.S. 46:2135(A)(6) and (7) and Children's Code Articles
4 1569(A)(6) and (7) and 1570(A)(5), relative to domestic abuse assistance; to provide
5 for temporary restraining orders; to expand the scope of protection of a temporary
6 restraining order; to provide relative to protective orders; to provide for certain
7 medical evaluations; to provide for the payment of attorney fees; and to provide for
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 46:2136(A)(4) and 2136.1(A) are hereby amended and reenacted and
11 R.S. 46:2135(A)(6) and (7) are hereby enacted to read as follows:

12 §2135. Temporary restraining order

13 A. Upon good cause shown in an ex parte proceeding, the court may enter a
14 temporary restraining order, without bond, as it deems necessary to protect from
15 abuse the petitioner, any minor children, or any person alleged to be an incompetent.
16 Any person who shows immediate and present danger of abuse shall constitute good
17 cause for purposes of this Subsection. The order may include but is not limited to the
18 following:

19 * * *

20 **(6) Awarding or restoring possession to the petitioner of all separate**
21 **property and all personal property, including but not limited to telephones or**
22 **other communication equipment, computer, medications, clothing, toiletries,**
23 **social security cards, birth certificates or other forms of identification, tools of**
24 **the trade, checkbook, keys, automobile, photographs, jewelry, or any other**

1 items or personal effects of the petitioner and restraining the defendant from
2 transferring, encumbering, concealing, or disposing of the personal or separate
3 property of the petitioner.

4 (7) Granting to the petitioner the exclusive care, possession, or control
5 of any pets belonging to or under the care of the petitioner or minor children
6 residing in the residence or household of either party, and directing the
7 defendant to refrain from harassing, interfering with, abusing or injuring any
8 pet, without legal justification, known to be owned, possessed, leased, kept, or
9 held by either party or a minor child residing in the residence or household of
10 either party.

11 * * *

12 §2136. Protective orders; content; modification; service

13 A. The court may grant any protective order or approve any consent
14 agreement to bring about a cessation of abuse of a party, any minor children, or any
15 person alleged to be incompetent, which relief may include but is not limited to:

16 * * *

17 ~~(4) Ordering counseling or professional medical treatment for the defendant~~
18 ~~or the abused person, or both~~

19 (a) Ordering a medical evaluation of the defendant or the abused person,
20 or both, to be conducted by an independent court-appointed evaluator who
21 qualifies as an expert in the field of domestic abuse. The evaluation shall be
22 conducted by a person who has no family, financial, or prior medical
23 relationship with the defendant or abused person, or their attorneys of record.

24 (b) If the medical evaluation is ordered for both the defendant and
25 abused person, two separate evaluators shall be appointed.

26 (c) After an independent medical evaluation has been completed and a
27 report issued, the court may order counseling or other medical treatment as
28 deemed appropriate.

29 * * *

30 §2136.1. Costs paid by abuser

A. All court costs, attorney fees, costs of enforcement and modifications
proceedings, costs of appeals, evaluation fees, and expert witness fees incurred in
furtherance of this Part maintaining or defending any proceeding concerning
domestic abuse assistance in accordance with the provisions of this Part shall be
paid by the perpetrator of the domestic violence, including all costs of medical and
psychological care for the abused adult, or for any of the children, necessitated by
the domestic violence.

* * *

Section 2. Children's Code Article 1570.1(A) is hereby amended and reenacted and Children's Code Articles 1569(A)(6) and (7) and 1570(A)(5) are hereby enacted to read as follows:

Art. 1569. Temporary restraining order

A. Upon good cause shown in an ex parte proceeding, the court may enter a temporary restraining order, without bond, as it deems necessary to protect from abuse the petitioner, any children, or any person alleged to be an incompetent. Immediate and present danger of abuse shall constitute good cause for purposes of this Article. The order may include but is not limited to the following:

* * *

(6) Awarding or restoring possession to the petitioner of all separate property and all personal property, including but not limited to telephones or other communication equipment, computer, medications, clothing, toiletries, social security cards, birth certificates or other forms of identification, tools of the trade, checkbook, keys, automobile, photographs, jewelry, or any other items or personal effects of the petitioner and restraining the defendant from transferring, encumbering, concealing, or disposing of the personal or separate property of the petitioner.

(7) Granting to the petitioner the exclusive care, possession, or control of any pets belonging to or under the care of the petitioner or minor children residing in the residence or household of either party, and directing the defendant to refrain from harassing, interfering with, abusing or injuring any

1 pet, without legal justification, known to be owned, possessed, leased, kept, or
2 held by either party or a minor child residing in the residence or household of
3 either party.

4 * * *

5 Art. 1570. Protective orders; content; modification; service

6 A. The court may grant any protective order or approve any consent
7 agreement to bring about a cessation of abuse of a party, any children, or any person
8 alleged to be incompetent, which relief may include but is not limited to:

9 * * *

10 (5)(a) Ordering a medical evaluation of the defendant or the abused
11 person, or both, to be conducted by an independent court-appointed evaluator
12 who qualifies as an expert in the field of domestic abuse. The evaluation shall
13 be conducted by a person who has no family, financial, or prior medical
14 relationship with the defendant or abused person, or their attorneys of record.

15 (b) If the medical evaluation is ordered for both the defendant and
16 abused person, two separate evaluators shall be appointed.

17 (c) After an independent medical evaluation has been completed and a
18 report issued, the court may order counseling or other medical treatment as
19 deemed appropriate.

20 * * *

21 Art. 1570.1. Costs paid by abuser

22 A. All court costs, attorney fees, costs of enforcement and modifications
23 proceedings, costs of appeals, evaluation fees, and expert witness fees incurred in
24 furtherance of this Chapter maintaining or defending any proceeding concerning
25 domestic abuse assistance in accordance with the provisions of this Chapter
26 shall be paid by the perpetrator of the domestic violence, including all costs of
27 medical and psychological care for the abused adult, or for any of the children,
28 necessitated by the domestic violence.

29 * * *

30 Section 3. This Act shall become effective upon signature by the governor or, if not

1 signed by the governor, upon expiration of the time for bills to become law without signature
2 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
3 vetoed by the governor and subsequently approved by the legislature, this Act shall become
4 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____